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# I. LAND AND PEOPLE

## A. Population

1. When the most recent national census was completed in 1990, the population of the United States of America had reached 248,709,873. The Census Bureau estimates current population to be 258,745,000 (1 September 1993) and increasing by some 3 million persons per year. By the year 2000, the United States population is expected to be 276,241,000. In recent years, the population has shifted from the North-East and Midwest to the South and West. Since 1960, the population in both the North-East and Midwest has decreased approximately 5 per cent and increased approximately 5 per cent in the South and West.

2. Females outnumber males, comprising 51.2 per cent of the population. The median age of all people is 32.9, with 22 per cent under the age of 15 and 12.4 per cent over the age of 65.

3. The United States is home to a wide variety of ethnic and racial groups; indeed, virtually every national, racial, ethnic, cultural and religious group in the world is represented in its population. Overall, 80 per cent of all people are white. Among the minority groups, 12 per cent are African Americans, 9 per cent are of Hispanic origin, 3 per cent are of Asian or Pacific Island origin, and less than 1 per cent are Native Americans.

4. Historically, the United States has been a nation of immigrants. According to the 1990 Census, nearly 20 million people (or more than 12 per cent of the population) were not born in the United States but call it home. In 1992, 973,977 aliens were granted lawful permanent resident status. This figure was inflated as a result of the Immigration Reform and Control Act of 1986 (IRCA), which provided a one-time opportunity for significant numbers of long-term illegal residents and special agricultural workers to gain permanent residence status. The primary countries of origin for legal immigrants were Mexico, Viet Nam, the Philippines, and the countries formerly constituting the Soviet Union. The Immigration and Naturalization Service (INS) estimates that another 300,000 people immigrated illegally. A recent INS analysis indicated that as many as 3.2 million people now reside illegally in the United States; approximately 40 per cent (1.3 million) live in California and 15 per cent (485,000) live in New York. Although the IRCA provided legal status to many Mexicans living in the United States, approximately 30 per cent of illegal aliens are Mexican. Another 9 per cent are from El Salvador and 4 per cent from Guatemala. In total, the INS indicates that illegal immigrants constitute about 1.3 per cent of the United States population.

5. About three quarters of all people in the United States live in urban areas, with "urban" defined as 2,500 or more residents in an area incorporated as a city, village, or town. While almost 30 per cent of all whites reside in rural areas, minorities reside predominantly in urban areas (87.2 per cent of all African Americans, 95 per cent of all Asians, 91 per cent of all Hispanics).

6. English is the predominant language of the United States. However, of approximately 230 million people over the age of 5, some 32 million (approximately 14 per cent) speak a language other than English. Seventeen million people speak Spanish; 4.5 million speak an Asian or Pacific Island language. French, German and Italian are among the next most common. Fourteen million people indicate they do not speak English "very well". The highest percentages of non-English speakers are found in the States of New Mexico, California, Texas, Hawaii and New York.

## B. Vital statistics

7. According to 1989 figures, overall life expectancy in the United States was 75.3 years. Women tend to live longer than men, with a life expectancy of 78.8 years, compared with 71.8 years for men. Whites have a longer life expectancy than minorities. For example, the life expectancy for whites is 76 years, but for African Americans it is only 69.2, and only 64.8 for African-American men. However, studies show these figures to be improving for all racial groups. Preliminary 1990 figures show the life expectancy for all of the United States to be 75.4, 76 for whites, and 70.3 for African Americans.

8. The total fertility rate for the United States, according to 1991 figures, was 2,073 births per 1,000 women aged 10-49. In other words, women in the United States on average have 2.1 births over the course of their child-bearing years. This is statistically equivalent to the replacement level of 2.0. Once again, there is significant disparity between racial groups: the white fertility rate is 1,885, with the rate decreasing, but the African-American fertility rate is 2,583, with the rate increasing. Overall, nearly 30 per cent of all births in the United States are currently to unmarried women.

9. The overall mortality rate in 1992 was 853.3 per 100,000, slightly lower than the previous year. The infant mortality rate was 9.8 deaths per 1,000 live births. However, there is a significant disparity between the rates for African American and whites. For example, the rate for whites was 8.2 per 1,000, but the rate for African Americans was more than double that, at 17.7. Lack of adequate prenatal care, socio-economic conditions, drug and alcohol abuse, and lack of education are cited as factors contributing to the difference. A similar pattern exists for the maternal mortality rate: the overall rate was 7.9 maternal deaths per 1,000 births, but the rate for whites was 5.6, compared to the 18.4 rate for African Americans.

10. There are 95.7 million households in the United States, of which 70 per cent contain families. However, married couples with children make up only 26 per cent of all households. In recent years, owing to the increasing acceptance of divorce and single-parenthood, more children are living with only one parent. Among all children under age 18, 27 per cent lived with a single parent in 1992, more than double the 12 per cent of children who lived with only one parent in 1970. Most children who live with one parent live with their mother. For instance, in 1992 approximately 88 per cent of children who lived with one parent lived with their mother. The proportion of children living with one parent varies according to race. Among children under 18, 21 per cent of white children lived with one parent,

whereas 57 per cent of African-American children and 32 per cent of Hispanic children lived with one parent. Children in every group were far more likely to live with their mother than their father. Among children living with their mother or father only, 84 per cent of white children, 94 per cent of African-American children, and 89 per cent of Hispanic children lived with their mother. In total, approximately 3 per cent of children under 18 live with a relative other than their parents or with a non-relative. While similar data is not available for Asians, in 1992 approximately 15 per cent of Asian family households were headed by women.

11. In 1992, it was estimated that there were 2.3 million marriages and 1.2 million divorces in the United States, in both cases slightly fewer than in the preceding year.

C. Socio-economic indicators

12. For the first quarter of 1993, the per capita income in the United States was $23,987 in current dollars. In mean money earnings, males earned $34,886 compared with $22,768 for females in 1990. The gross domestic product (GDP) in billions of current dollars was 6,038.5 for 1992 and 6,327.6 for the second quarter of 1993. The Consumer Price Index, frequently used to measure inflation, has decreased steadily since 1989 from 5.4 per cent for 1989-1990 to 2.8 per cent for the period August 1992 to August 1993.

13. In 1992, 67 per cent of the population 16 years and older (totalling 117,598,000) was in the workforce, including 16.8 million working mothers. The overall unemployment rate was 7.4 per cent. For men, the figure was 7.8 per cent, compared with 6.9 per cent for women. Whites' rate of unemployment was 6.5 per cent, African-Americans' rate was 14.1 per cent, and Hispanics' rate was 11.4 per cent. The minimum wage in 1992 was $4.25 an hour. Women and minorities continue to be over-represented in low-paying jobs.

14. In 1992, 14.5 per cent of the population was below the poverty level, the federally established figure below which a person is considered to have insufficient income for his or her basic needs. For a household of four in 1992, this was equal to $14,335. Of all households headed by females, 34.9 per cent were below the poverty level. The poverty rates for white, African American, and Hispanic households headed by women were, respectively, 28.1 per cent, 49.8 per cent, and 48.8 per cent. Among children, 21.9 per cent lived below the poverty line, including one in four children under six years old.

15. The rate of poverty varies significantly among racial groups in the United States. While 11.6 per cent of whites (9.6 per cent when Hispanics are not included) are below the poverty line, 33.3 per cent of African Americans, 29.3 per cent of Hispanics, and 12.5 per cent of Asian/Pacific Islanders fall below the poverty level. Among the poor in 1992, 73.2 per cent received some form of federal welfare assistance. Assistance may include cash as well as non-cash benefits. In 1992, 42.7 per cent of the poor received means-tested cash assistance. In 1989, the United States spent $956 billion on social welfare expenditures for an average of $3,783 per person in current 1989 dollars.

16. According to the 1990 Census, 78.4 per cent of the population had four years or more of high school education, 39.8 per cent had one or more years of college, and 21.4 per cent had four or more years of college. Males and females achieved similar levels of education, the primary difference being that 24.3 per cent of males versus 18.8 per cent of females received four or more years of college. Educational levels differed more widely, however, on the basis of race. Rates for high school and four or more years of college were 79.9 per cent and 22.2 per cent for whites versus 66.7 per cent and 11.5 per cent for African Americans, and 51.3 per cent and 9.7 per cent for Hispanics. In 1992, 63 per cent of the most recent graduates of high school had enrolled in colleges and universities.

17. Approximately four fifths of all American women have completed high school. Additionally, women constitute 54 per cent of the students in undergraduate, graduate, and professional degree programmes. More specifically, 55 per cent of undergraduate students are women, 53 per cent of graduate students are women, and 39 per cent of professional degree students are women.

18. The last nationwide studies of the literacy rate were in 1982 and 1986. According to the 1982 study, adults in the United States over the age of 20 had a 13 per cent illiteracy rate. The 1986 study concerned young adults between the ages of 20 and 24, measured by standards of fourth, eighth, and eleventh grade reading levels. The results showed that 6 per cent were illiterate at a fourth grade level, 20.2 per cent were illiterate at an eighth grade level, and 38.5 per cent were illiterate at an eleventh grade level.

19. However, the methodology on which these studies were based has proven inadequate to indicate how well the tested individuals can actually use their reading and writing skills. Accordingly, the United States Department of Education has recently developed a new method for evaluating functional literacy by testing prose, document and quantitative literacy. In a study of 26,000 individuals conducted in conjunction with authorities in 12 States, almost half of the participants scored in the lowest of five levels in each of the three literacy categories. Less than 5 per cent of participants scored in the highest skill levels. The survey found that older adults, who have typically completed the fewest years of schooling, demonstrated lower literacy skills than other age groups. Among participants scoring in the lowest skill levels, 62 per cent had not completed high school and 35 per cent had eight or fewer years of formal schooling; 25 per cent were born in another country; and 26 per cent had some physical or mental condition that prevented them from fully working. Almost half of these participants lived in poverty. Adults in prison were disproportionately likely to perform in the lowest two levels of literacy skill.

20. Freedom to worship and to follow a chosen religion is constitutionally protected in the United States. As a result, literally hundreds of religions and sects exist. The population is overwhelmingly Christian, although obtaining accurate statistical data with regard to religion is extremely difficult, as this information is not included in the decennial census or otherwise collected by the Government. The available figures are often rough, based on self-reporting studies which leave great room for error. According to the 1992 Yearbook of American and Canadian Churches, practising church

members make up 59.3 per cent of the general population. Of those church members, the major groups include Protestants (chiefly Baptists, Methodists, Lutherans, Presbyterians, Episcopalians, Pentecostals and Mormons) (49.4 per cent) and Roman Catholics (38.6 per cent). Jews and Muslims make up about 2 per cent each, and followers of Eastern religions comprise about 3 per cent.

## D. Land

21. In its totality, the United States of America covers 9.4 million $km^2$, including the 48 coterminous States which span the North American continent, Alaska, Hawaii and the various insular areas in the Pacific Ocean and Caribbean Sea.

22. The geography of the continental United States is widely varied, with great mountain ranges, flat open prairies, and numerous rivers. On the Atlantic shore, much of the northern coast is rocky, but the middle and southern Atlantic coast rises gently from the sea. It starts as low, wet ground and sandy flats, but then becomes a rolling coastal lowland somewhat like that of northern and western Europe. The Appalachians, which run roughly parallel to the east coast, are old mountains with many open valleys between them. To the west is the Appalachian plateau underlain by extensive coal deposits, and beyond is the Central Lowland, which resembles the plains of eastern Europe or the Great Plains of Australia. The Central Lowland is drained chiefly by the vast Mississippi-Missouri river system, which extends some 5,970 km and which experienced disastrous flooding during 1993. In the south, the Gulf Coastal Lowlands, including Florida and westward to the Texas Coast, include many lagoons, swamps and sandbars in addition to rolling coastal plain.

23. North of the Central Lowland, extending for almost 1,600 km, are the five Great Lakes, four of which the United States shares with Canada. The lakes are estimated to contain about half of the world's fresh water.

24. West of the Central Lowland are the Great Plains, likened to the flat top of a table which is slightly tilted upward to the west. They are stopped by the Rocky Mountains, the "backbone of the continent". The Rockies are considered young mountains, of the same age as the Alps in Europe or the Himalayas in Asia. They are high, rough and irregular in shape, with peaks exceeding 4,200 metres above sea level. Through the Rockies runs the Continental Divide which separates drainage into the Atlantic Ocean from drainage into the Pacific Ocean.

25. The land west of the Rockies is made up of distinct and separate regions. One region encompasses the high Colorado Plateau, in which the Grand Canyon of the Colorado River is cut, 1.6 km in depth. Other regions include the high Columbia tableland to the north, the Basin and Range Province to the south, the Sierra Nevada mountain range, and at the border of the Pacific Ocean, the Coast Ranges, relatively low mountains in a region with occasional earthquakes. Death Valley, located in eastern California and south-western Nevada, contains the lowest point in the Western Hemisphere, 86 metres below sea level.

26. The Cascade Mountains and the Sierra Nevada Mountains, close to the west coast of the continent, catch the largest share of the rain off the Pacific Ocean before it can go inland. As a result, there is too little rain for almost the whole western half of the United States, which lies in the "rain shadow" of the mountains. In a great part of that territory, farmers must depend on irrigation water from the snows or rains that are trapped by the mountains. Most of the western half of the country, with the exception of the Pacific North-West States, receives less than 50 cm of rainfall a year. Regions in the eastern half receive at least 50 cm, and often much more, through moist air masses from the Gulf of Mexico and Atlantic Ocean that travel inland.

27. Along the western or Pacific coast, the temperature changes little between winter and summer. In some places, the average difference between July and January is as little as 10° C. The climate along the northern part of this coast is similar to that of England. However, in the north central part of the country, summer and winter are vastly different. The average difference between July and January is 36° C, and more violent extremes are common. In the eastern part of the United States, the difference between summer and winter is also distinct, but not nearly so extreme. Near the south-western and south-eastern corners of the country, the climate is mild in winter, but in summer the temperature may reach equatorial levels.

28. Natural vegetation ranges from the mixed forests of the Appalachians to the grasslands of the Great Plains, from the conifers of the Rocky Mountains to the redwood forests of California, the cacti and mesquite of the south-western deserts and the subtropical pines, oaks, palms, and mangroves of the Gulf and southern Atlantic coasts.

29. The variations in temperature within the continental United States have had a marked effect on the country's economy and living standard. There is a long crop growing season along the south-east coast. This is also true in several small strips and pockets to the west where crops like grapes grow well during a large part of the year. In some of the cooler climates, animals and produce such as apples, wheat and corn thrive. Subtropical climates in parts of the United States allow for particularly long growing seasons. Citrus fruit is grown in Florida, California, Arizona and Texas. Sugar cane is grown in Louisiana and rice in Arkansas, California, Louisiana and Texas. Cotton is grown throughout the south-eastern United States as well as in Texas, Arizona and California. As a result, the United States produces a large range of agricultural products. Approximately one half of the land is occupied by farms, with dairies important in the north and north-east, livestock and feedgrains in the Midwest, wheat in the Great Plains, and livestock on the High Plains and in the South.

30. Located at the extreme north-western corner of the continent and separated from the 48 contiguous States by western Canada, Alaska is the largest State (1.5 million $km^2$) and the only one extending longitudinally into the Eastern Hemisphere. Alaska includes two major mountain chains, the Brooks Range in the north and the Alaska Range in the south, as well as the highest point in the United States, Mt. McKinley (6,194 metres above sea level). The two ranges are separated by a Central Plateau through which the Yukon River flows. The northernmost part of the State contains the

Arctic Slope. With thousands of offshore islands, Alaska has 54,552 km of shoreline. Alaska is one of the least populous States (in 1992, only Wyoming had a smaller population), but indigenous people constitute over 15 per cent of the total.

31. The Aleutian Islands extend 1,930 km into the northern Pacific Ocean from the Alaskan Peninsula and include some 150 islands of volcanic origin totalling 17,666 $km^2$. The population of 8,000 is largely indigenous.

32. Hawaii, the fiftieth State, comprises a chain of some 130 islands representing the peaks of submerged volcanic mountains extending across 2,400 km in the North Pacific Ocean. The main islands (Hawaii, Maui, Kahoolawe, Lanai, Molokai, Oahu, Kauai and Niihau) are located at the south-eastern end, approximately 3,800 km from the mainland. There are several active volcanoes, including Mauna Loa (4,169 metres) and Kilauea (4,205 metres). The climate is generally subtropical; Mt. Waialeale on Kauai is the wettest spot in the United States, with an average annual rainfall of 1,168 cm. The population exceeds 1.1 million and is of diverse origins: 20 per cent are Native Hawaiians of Polynesian and Tahitian descent, 25 per cent Japanese, 12 per cent Filipino, and 29 per cent Caucasian of American, European, and South American lineage.

33. Guam, a self-governing territory of the United States, is located approximately 9,600 km from the mainland in the western Pacific Ocean. The largest and southernmost of the Mariana Islands, it is 48 km long and encompasses 541 $km^2$ of land. The highest point is Mt. Lamlam (405 metres above sea level). The population totals 146,000, of which 47 per cent is Chamorro, 25 per cent Filipinos and 20 per cent stateside immigrants.

34. The Commonwealth of the Northern Mariana Islands includes an archipelago of 16 islands stretching some 750 km in the Western Pacific, approximately 2,400 km east of the Philippines. The three main islands are Saipan, Tinian and Rota; the total land mass is 477 $km^2$. The population of 49,000 is largely of Chamorro descent. The principal industry is tourism, although many residents engage in subsistence agriculture and copra export.

35. The most southern United States jurisdiction is American Samoa, an unincorporated territory of seven small islands at the eastern end of the Samoan Island chain in the South Pacific Ocean, midway between Honolulu and Sydney, Australia. They include Tutuila, Aunu'u, the Manu'a group, Rose Island and Swains Island, covering 199 $km^2$. Volcanic and mountainous, and surrounded by coral reefs, the islands retain much of their original Polynesian culture. The population of 53,000 is composed of United States nationals approximately 90 per cent of whom are Samoans with the remainder being primarily Tongan or other Pacific Island origin.

36. Other United States dependencies in the Pacific Ocean include Wake Island (and its sister islands Wilkes and Peale), an atoll in the central Pacific with a population of 300 (mostly United States government personnel with no indigenous population); Midway Islands (including Sand and Eastern Islands) in the northern Pacific with no indigenous population; Johnston Atoll, with a total area of 2.8 $km^2$ and no indigenous population; Howland, Jarvis and

Baker Islands, which are uninhabited and administered by the Department of the Interior; Kingman Reef, which is uninhabited and administered by the United States Navy; and Palmyra Atoll, privately owned and administered by the Department of the Interior.

37. In the Caribbean, Puerto Rico is a self-governing commonwealth located at the eastern end of the Greater Antilles. The main island is largely mountainous with a surrounding coastal plain; Cerro del Punta in the Cordillera Central is the highest elevation, at 1,325 metres above sea level. The main island extends 153 km east-to-west and 58 km north-to-south, and encompasses approximately 9,100 $km^2$. Puerto Rico enjoys a mild tropical climate but is subject to hurricanes. The population of 3.8 million is largely Hispanic, descended from Spanish conquerors and slaves. Some 2.7 million Puerto Ricans reside on the mainland. The primary economic activities include tourism, light manufacturing and agriculture.

38. Some 60 miles to the east of the main island of Puerto Rico lie the United States Virgin Islands, the westernmost group of the Lesser Antilles in the West Indies. The three largest are St. Thomas, St. John and St. Croix; altogether, the territory covers some 352 $km^2$ of land. The highest point is Crown Mountain on St. Thomas, with an elevation of 474 metres. The climate is subtropical, and the principal activities involve tourism, light manufacturing and agriculture. The population totals 98,000, of which 85 per cent are African Americans. Off the western tip of Haiti is Navassa Island, uninhabited and administered by the United States Coast Guard.

## II. GENERAL POLITICAL STRUCTURE

### A. Republican form of government

39. The United States of America is a federal republic of 50 States, together with a number of commonwealths, territories and possessions. The United States Constitution is the central instrument of government and the supreme law of the land. Adopted in 1789, the Constitution is the world's oldest written constitution still in force, and owes its staying power to its simplicity and flexibility. Originally designed to provide a framework for governing 4 million people in 13 very different former British colonies along the Atlantic coast, its basic provisions were so soundly conceived that, with only 27 amendments, it now serves the needs of some 250 million people in 50 even more diverse States and other constituent units which stretch from the Atlantic to the Pacific Ocean.

40. Although the Constitution has changed in a number of respects since it was first adopted, most of its basic principles remain the same as they were in 1789:

- The will of the people forms the basis of governmental legitimacy, and the people have the right to change their form of national government by legal means defined in the Constitution itself.

- The three main branches of the federal government (the executive, legislative, and judicial) are separate and distinct from one another. The powers given to each are delicately balanced by the powers of the other two. Each branch serves as a check on potential excesses of the others.

- The Constitution stands above all other laws, executive acts and regulations, including treaties.

- All persons are equal before the law and are equally entitled to its protection. All States are equal, and none can receive special treatment from the federal government. Within the limits of the Constitution, each State must recognize and respect the laws of the others. State Governments, like the federal government, must be republican in form, with final authority resting with the people.

- Powers not granted to the federal government are reserved to the States or the people.

41. The Constitution and the federal government stand at the peak of a governmental pyramid which includes the 50 States and many hundreds of local jurisdictions. In the United States system, each level of government has a large degree of autonomy. Disputes between different jurisdictions are typically resolved by the courts. However, there are questions involving the national interest which require the cooperation of all levels of government simultaneously, and the Constitution makes provision for this as well. By way of example, the public (government-funded) schools are largely administered by local jurisdictions, adhering to statewide standards even at the university level. Private schools are also generally required to meet the same standards. Nevertheless, the federal government also aids the schools, as literacy and educational attainment are matters of vital national interest. In other areas, such as housing, health and welfare, there is a similar partnership between the various levels of government.

42. Within the States there are generally two or more layers of government. Most States are divided into counties, and areas of population concentration are incorporated in municipalities or other forms of local government (cities, towns, townships, boroughs, parishes or villages). In addition, school districts and special service districts provide systems of public education and various other services (for example, water and sewer services, fire and emergency services, higher education, hospital services, public transportation). The leaders of the federal, State, county, municipal and other local Governments are for the most part democratically elected, although some are appointed by other officials who are themselves democratically elected. The leaders of special service districts are likewise either elected or appointed, with election more common in the case of school districts.

43. The federal Constitution establishes a democratic system of governance at the federal level and guarantees a republican system at the State and local levels. Elected at the federal level are the President, the Vice President, and members of the United States Senate and House of Representatives. There is considerable variation in the governmental structures of the States and of lesser governmental units. From State to State there are large differences in the number of officials who are elected per unit of government and in the number of officials elected per capita. Elected at the State level typically are the governor, a lieutenant governor, an attorney-general, other leaders of State governmental departments, members of a bicameral legislature (Nebraska has a unicameral legislature). In many States, justices of the State supreme court and judges in various lower courts are also elected. Elected at the

county level typically are members of a county governing body, a chief executive, a sheriff, a clerk, an auditor, a coroner, and the like, and minor judicial officials, such as justices of the peace and constables. Officials elected at the municipal level usually include a mayor and members of a governing council, board, or commission. All elections, even those for federal office, are conducted by the States or their political subdivisions.

44. Officials at all levels are elected at regularly scheduled elections to terms of fixed duration, usually varying in length between one and six years. Vacancies are filled either through special elections or by appointment or by a combination of the two methods. Elections are conducted by secret ballot.

45. While the Constitution does not establish or regulate political parties, most federal and State elections are in fact dominated by two long-established parties: the Democratic Party, the origins of which may be traced to Thomas Jefferson, who was President from 1801 to 1809, and the Republican Party, founded in 1854. Each party is a loose alliance of private organizations formed at the State and local levels which unite every four years for the presidential election. While the Democratic Party is generally considered more liberal and the Republican Party more conservative in terms of ideology, there are no tests for party registration and beliefs vary widely across the country. Some Democrats are more conservative than most Republicans, and some Republicans are more liberal than most Democrats. Where one party dominates the local politics, the only truly competitive electoral race may in fact be an initial, intra-party election of the party's candidate for office. Particularly during a presidential election, each party tends to compete for voters with a "moderate" or centrist ideology, considered to comprise the majority of voters nationwide. None the less, each party has both a liberal and a conservative "wing" or group of members.

46. While the United States may generally be said to have a "two party" system, many Americans consider themselves "independents" or unaffiliated with either the Democratic or Republican Party. Currently, one independent holds a seat in the United States Congress and two independents are State governors. An independent candidate for President won 18.9 per cent of the popular vote in the 1992 election.

47. Most elections involve a two-step process. The first (or "primary") step involves the selection or designation of a candidate to represent a political party; second, the respective parties' candidates run against each other and any independent candidates in a general election. Local and State party organizations vary widely in the degree to which a voter must demonstrate party allegiance before participating in the party's nominating methods. Commonly, "primary" elections are held among a party's candidates to determine who will be the nominee of that party for office. Other methods include party caucuses and conventions. Primary elections usually require a voter to demonstrate at least a minimal commitment to a particular party; however, the voter may not be required to register as a member of the party before voting in that party's primary. On the other hand, party caucuses and conventions typically require a greater degree of party affiliation by the voter and may be open only to certain party officials. Once the parties have designated their candidates for office, State-run general elections are held. In almost all elections, voters are permitted to "split" their ballots by, for example,

voting for a Democrat for President and a Republican for Senator. The result is that at both the federal and State levels, the individual holding the highest executive office (e.g. President or Governor) may be of a different political party from the majority of elected representatives in the legislative branch.

## B. Federal government

48. The federal government consists of three branches: the executive, the legislative and the judicial.

### 1. The executive branch

49. The executive branch of government is headed by the President, who under the Constitution must be a natural-born United States citizen, at least 35 years old, and a resident of the country for at least 14 years. Candidates for the presidency are chosen by political parties several months before the presidential election, which is held every four years (in years divisible evenly by four) on the first Tuesday after the first Monday in November.

50. The method of electing the President is peculiar to the United States system. Although the names of the candidates appear on the ballots, technically the people of each State do not vote directly for the President and Vice President. Instead, they select a slate of "presidential electors," equal to the number of Senators and Representatives each State has in Congress. The candidate with the highest number of votes in each State wins all the electoral votes of that State.

51. According to the Constitution, the President must "take care that the laws be faithfully executed". To carry out this responsibility, the President presides over the executive branch of government, with broad powers to manage national affairs and the workings of the federal government. When authorized by statute, the President can issue rules, regulations and instructions called executive orders, which are binding upon federal agencies. As commander-in-chief of the armed forces of the United States, the President may also call into federal service the State units of the National Guard. The Congress may by law grant the President or federal agencies broad powers to make rules and regulations under standards set in those laws. In time of war or national emergency, these grants may be broader than in peacetime.

52. The President chooses the heads of all executive departments and agencies, together with hundreds of other high-ranking federal officials. The large majority of federal workers, however, are selected through the Civil Service system, in which appointment and promotion are based on ability and experience rather than political affiliation.

53. Under the Constitution, the President is the federal official primarily responsible for the relations of the United States with foreign nations. In this sense the President is both "head of government" and "head of State". Presidents appoint ambassadors, ministers and consuls, subject to confirmation by the Senate, and receives foreign ambassadors and other public officials. With the Secretary of State, the President manages all official communication with foreign Governments. On occasion, the President may personally participate in summit conferences where heads of government meet for direct consultation.

54. Through the Department of State, the President is responsible for the protection of United States citizens abroad. Presidents decide whether to recognize new nations and new governments, and negotiate treaties with other nations, which are binding on the United States when approved by two thirds of the Senators present and voting. The President may also negotiate executive agreements with foreign powers that are not subject to Senate advice and consent, based on statutory authority as well as inherent constitutional powers.

55. Although the Constitution provides that "all legislative powers" shall be vested in the Congress, the President, as the chief formulator of public policy, also has a major role in the legislative process. The President can veto any bill passed by Congress, and, unless two thirds in each house vote to override the veto, the bill does not become law. Much of the legislation dealt with by Congress is drafted at the initiative of the executive branch. In his annual report (the "State of the Union" address) and in other special messages to Congress, the President may propose legislation he believes is necessary. The President has the power to call the Congress into special session. Furthermore, the President, as head of a political party and as chief executive officer of the United States Government, is in a position to influence public opinion and thereby to influence the course of legislation in Congress.

56. The President also nominates federal judges, including Justices of the Supreme Court of the United States, subject to the advice and consent of the Senate. The President has the power to grant a full or conditional pardon to anyone convicted of breaking a federal law, except in a case of impeachment. The pardoning power has come to embrace the authority to shorten prison terms and reduce fines.

57. The day-to-day enforcement and administration of federal laws is in the hands of the various executive departments created by Congress to deal with specific areas of national and international affairs. The heads of the departments, chosen by the President and approved by the Senate, form a council of advisers generally known as the President's Cabinet. The Cabinet is an informal consultative and advisory body, not provided for by the Constitution. Currently, the members of the Cabinet include the secretaries of the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, Interior, Labor, State, Transportation, Treasury, and Veterans Affairs, as well as the Attorney-General, who heads the Justice Department. Some executive departments include major subordinate agencies, such as the United States Coast Guard and the Federal Aviation Administration (the Department of Transportation), the Federal Bureau of Investigation (the Department of Justice), and the Bureau of Indian Affairs and the National Park Service (the Department of the Interior).

58. In addition to the secretaries of the 14 executive departments, the chiefs of a number of other governmental organizations are also considered part of the Cabinet. Currently, these include the chiefs of the White House staff, the National Security Council, the Office of Management and Budget, the Council of Economic Advisers, the Office of the United States Trade Representative, the Environmental Protection Agency, Drug Control Policy,

Domestic Policy Council, the National Economic Council, and the United States Ambassador to the United Nations. The Office of the President includes certain other organizations such as the Office of Science and Technology and the Office of Environmental Policy.

59. In addition to the executive departments, more than 50 other agencies within the executive branch have important responsibilities for keeping the government and the economy working. These are often called independent agencies, as they are technically not part of the executive departments. Some are regulatory groups, with powers to supervise certain sectors of the economy, such as the Securities and Exchange Commission, the Nuclear Regulatory Commission and the Interstate Commerce Commission. Others provide special services, either to the government or to people, such as the United States Postal Service, the Central Intelligence Agency, and the Federal Election Commission. In most cases, the agencies have been created by Congress to deal with matters that have become too complex for the scope of ordinary legislation. Among the best known independent agencies are the Peace Corps and the National Aeronautics and Space Administration (NASA).

60. All together, the executive branch currently employs approximately 3 million civilian personnel.

61. The Department of Defense is responsible for providing the military forces required to deter war and protect the security of the United States. The major elements of these forces include the Army, Navy, Marine Corps and Air Force, consisting in September 1993 of approximately 1.7 million active duty personnel. Women make up 11 per cent of the armed forces, but fewer than 1 per cent serve in the infantry, in gun crews or aboard ship. Under the authority of the President, the Secretary of Defense exercises civilian authority, direction and control over the Department of Defense, which includes the separately organized departments of Army, Navy and Air Force, the Joint Chiefs of Staff, the unified and specified combatant commands, and various subordinate agencies established for specific purposes.

### 2. The legislative branch

62. The legislative branch of the federal government is the Congress, which has two houses: the Senate and the House of Representatives. Powers granted Congress under the Constitution include the powers to levy taxes, borrow money, regulate interstate commerce, declare war, discipline its own membership, and determine its rules of procedure. Including related entities such as the Library of Congress, the General Accounting Office, the Government Printing Office and the Congressional Budget Office, the legislative branch employs some 38,000 people.

#### The Senate

63. Each State elects two senators. Senators must be at least 30 years old, residents of the State from which they are elected, and citizens of the United States for at least nine years. Each term of service is for six years, and terms are arranged so that one third of the members are elected every two years.

64. The Senate has certain powers especially reserved to that body, including the authority to confirm presidential appointments of high officials and ambassadors of the federal government, as well as authority to give its advice and consent to the ratification of treaties by a two thirds vote.

65. The Constitution provides that the Vice President of the United States shall be president of the Senate. The Vice President has no vote, except in the case of a tie. The Senate chooses a president pro tempore from the majority party to preside when the Vice President is absent.

The House of Representatives

66. The 435 members of the House of Representatives are chosen by direct vote of the electorate in each State, with the number of representatives allotted to each State on the basis of population. Each representative represents a single congressional district. Members must be at least 25 years old, residents of the States from which they are elected, and previously citizens of the United States for at least seven years. They serve for a two-year period.

67. The House of Representatives chooses its own presiding officer, the Speaker of the House. The Speaker is always a member of the political party with the majority in the House.

68. The leaders of the two political parties in each house of Congress are respectively the majority floor leader and the minority floor leader; they are helped by party whips who maintain communication between the leadership and the members of the House. Legislative proposals (termed "bills" prior to enactment as "statutes") introduced by members in the House of Representatives are received by the standing committees which can amend, expedite, delay, or kill the bills. The committee chairmen attain their positions on the basis of seniority. Among the most important House committees are those on Appropriations, Foreign Affairs, Ways and Means, and Rules.

69. Each house of Congress has the power to introduce legislation on any subject, except that revenue bills must originate in the House of Representatives. Each house can vote against legislation passed by the other house. Often, a conference committee made up of members from both houses must work out a compromise acceptable to both houses before a bill becomes law.

The role of committees

70. One of the major characteristics of the Congress is the dominant role committees play in its proceedings. Committees have assumed their present-day importance by evolution, not design, as the Constitution makes no provision for their establishment. At present, the Senate has 16 standing committees; the House of Representatives has 22. The Houses share a number of joint committees, such as the Joint Committee on Taxation, and each also has a number of special and select committees. Each specializes in specific areas of legislation and governmental activity, such as foreign affairs, defence, banking, agriculture, commerce, appropriations and other fields. Every bill introduced in either house is referred to a committee for study and recommendation. The committee may approve, revise, reject or ignore any

measure referred to it. It is nearly impossible for a bill to reach the House or Senate floor without first winning committee approval. In the House, a petition to discharge a bill from committee requires the signatures of 218 members; in the Senate, a majority of all members is required. In practice, such discharge motions rarely receive the required support.

71. The majority party in each house controls the committee process. Committee chairs are selected by a caucus of members of the majority party in that house or by specially designated groups of members. Minority parties are proportionately represented in the committees according to their strength in each house.

72. Bills are developed by a variety of methods. Some are drawn up by standing committees, some by special committees created to deal with specific legislative issues, and some are suggested by the President or other executive branch officers. Citizens and organizations outside the Congress may suggest legislation to members, and individual members themselves may initiate bills. Each bill must be sponsored by at least one member of the house in which it is introduced. After introduction, bills are sent to designated committees which may schedule a series of public hearings to permit presentation of views by persons who support or oppose the legislation. The hearing process, which can last several weeks or months, opens the legislative process to public participation.

73. When a committee has acted favourably on a bill, the proposed legislation may then be brought to the floor for open debate. In the Senate, the rules permit virtually unlimited debate. In the House, because of the large number of members, the Rules Committee usually sets limits. When debate is ended, members vote to approve the bill, defeat it, table it (set it aside), or return it to committee. A bill passed by one house is sent to the other for action. If the bill is amended by the second house, the bill may return to the first house for another vote, or a conference committee composed of members of both houses may attempt to reconcile the differences.

74. Once passed by both houses, the bill is sent to the President, who must act on the bill for it to become law. The President generally has the option of signing the bill, in which case it becomes law, or vetoing it. A bill vetoed by the President must be reapproved by a two thirds vote of both houses in order to become law. If the President refuses either to sign or veto a bill, it becomes law without his signature 10 days after it reaches him (not including Sundays). The single exception to this rule is when Congress adjourns after sending a bill to the President and before the 10-day period has expired; the President's refusal to take any action then negates the bill - a process known as the "pocket veto".

Congressional powers of oversight and investigation

75. Among the most important functions of the Congress are oversight and investigation. Oversight functions include reviewing the effectiveness of laws already passed and assessing their implementation by the executive branch, as well as inquiring into the qualifications and performance of members and officials of the other branches. In addition, investigations are conducted to gather information on the need for future legislation. Frequently, committees call on outside (non-governmental) experts to assist in conducting investigative hearings and to make detailed studies of issues.

76. There are important corollaries to the powers of oversight and investigation. One is the power to publicize the proceedings and their results. Most committee hearings are open to the public and are widely reported in the mass media. Congressional hearings thus represent one important tool available to lawmakers to inform the citizenry and arouse public interest in national issues. A second power is to compel testimony from unwilling witnesses and to cite for contempt of Congress witnesses who refuse to testify, and for perjury those who give false testimony.

### 3. The judicial branch

77. The third branch of the federal government, the judiciary, consists of a system of courts headed by the Supreme Court of the United States and including subordinate courts throughout the country. The federal judicial power includes cases arising under the Constitution, laws, and treaties of the United States; admiralty and maritime cases; cases affecting ambassadors, ministers and consuls of foreign countries in the United States; controversies in which the United States Government is a party; and controversies between States (or their citizens) and foreign nations (or their citizens and subjects). In practice the vast majority of litigation in federal courts is based on federal law or involves disputes between citizens of different States under the courts' "diversity" jurisdiction.

78. The power of the federal courts extends both to civil actions for money damages and other forms of redress, and to criminal cases arising under federal law. Article III of the Constitution establishes the Supreme Court of the United States and gives Congress the power to establish other federal courts as needed. Under Article I, Congress also has the power to establish courts; Article I courts include territorial courts, certain District of Columbia courts, courts martial, and legislative courts and administrative agency adjudicative procedures.

79. The Constitution safeguards judicial independence by providing that federal judges shall hold office "during good behaviour" - in practice, until they die, retire, or resign, although a judge who commits an offence while in office may be impeached in the same way as the President or other officials of the federal government. Federal judges are appointed by the President and confirmed by the Senate. Altogether, there are approximately 1,000 federal judges, and the federal judiciary employs some 28,000 people.

#### The Supreme Court

80. The Supreme Court is the highest court of the United States and the only one specifically created by the Constitution. A decision of the Supreme Court cannot be appealed to any other court. Congress has the power to fix the number of judges sitting on the Court (currently a Chief Justice and eight Associate Justices) and, within limits, to decide what kind of cases it may hear, but it cannot change the powers given to the Supreme Court by the Constitution itself.

81. The Supreme Court has original jurisdiction (i.e. the authority to hear cases directly rather than on appeal) in only two kinds of cases: those involving foreign dignitaries, and those in which a State is a party. All other cases reach the Supreme Court on appeal from lower federal courts or

from the various State courts. The right of appeal is not automatic in all cases, however, and the Supreme Court exercises considerable discretion in selecting the cases it will consider. A significant amount of the work of the Supreme Court consists of determining whether legislation or executive acts conform to the Constitution. This power of judicial review is not expressly provided for by the Constitution. Rather, it is a doctrine inferred by the Court from its reading of the Constitution, and stated in the landmark case of Marbury v. Madison, 5 United States (1 Cranch) 137 (1803). In that case, the Court held that "a legislative act contrary to the Constitution is not law", and observed that "it is emphatically the province and duty of the judicial department to say what the law is". The doctrine of judicial review also covers the activities of State and local governments.

82. Decisions of the Court need not be unanimous; a simple majority prevails, provided at least six Justices participate in the decision. In split decisions, the Court usually issues both a majority and a minority or dissenting opinion, both of which may form the basis for future decisions by the Court. Often Justices will write separate concurring opinions when they agree with a decision, but for reasons other than those given by the majority.

Courts of appeals and district courts

83. The second highest level of the federal judiciary is made up of the courts of appeals. The United States is currently divided into 12 appellate circuits, each served by a court of appeals. The courts of appeals have appellate jurisdiction over decisions of the district courts (trial courts with federal jurisdiction) within their respective geographic areas. They are also empowered to review orders of the independent regulatory agencies, such as the Federal Trade Commission, in cases where the internal review mechanisms of the agencies have been exhausted and there still exists substantial disagreement over legal issues. There is also a thirteenth court of appeals, which hears appeals from certain courts with specialized jurisdiction. Approximately 180 judges sit on the various courts of appeals.

84. Below the courts of appeals are the federal district courts. The 50 States are divided into 89 districts so that litigants may have a trial within easy reach. Additionally, there are district courts in the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the territories of Guam and the Virgin Islands. Congress fixes the boundaries of the districts according to population, size, and volume of work. Some States (such as Alaska, Hawaii, Idaho and Vermont) constitute a district by themselves, while the larger States (such as New York, California and Texas) have four districts each. In total, there are approximately 650 federal district judges.

Courts with specialized jurisdiction

85. In addition to the federal courts of general jurisdiction, it has been necessary from time to time to set up courts for special purposes. Perhaps the most important of these special courts is the United States Court of Federal Claims, established in 1855 to render judgment on monetary claims against the United States. Other special courts include United States Tax Court, the Court of Veterans Appeals, and the Court of International Trade, which has exclusive jurisdiction over civil actions involving taxes or quotas on imported goods.

Military courts

86. A separate system exists for military justice. Members of the military are subject to the Uniform Code of Military Justice for disciplinary matters. Cases of alleged criminal conduct are investigated, and when substantiated are resolved, in appropriate forums ranging from nonjudicial punishment to one of three types of courts martial. In a trial by court martial, an accused is accorded the full range of constitutional rights, including representation by a qualified defense counsel at no charge to the individual. Any court martial that results in a sentence of confinement for a year or more, discharge from the service or capital punishment is automatically reviewed by the relevant court of military review for the concerned service. Those courts, which are composed of senior military (and sometimes civilian) attorneys serving as judges, examine the records of trial for both factual and legal error. Decisions can be appealed to the court of military appeals, on which five civilian judges sit. Adverse decisions can be further reviewed by the Supreme Court of the United States on a discretionary basis.

Relationship between federal and State courts

87. Over the course of the nation's history, a complex set of relationships between State and federal courts has arisen. Ordinarily, federal courts do not hear cases arising under the laws of individual States. However, some cases over which federal courts have jurisdiction may also be heard and decided by State courts. Both court systems thus have exclusive jurisdiction in some areas and concurrent jurisdiction in others. Taking into account that there are 50 separate State court systems, which often include subordinate judicial bodies (e.g., county and city courts), as well as the judicial systems of the insular areas, the District of Columbia and other nonstate entities, there are over 2,000 courts with general jurisdiction and approximately 18,000 judicial districts of either general or limited jurisdiction in the United States. Many States have large numbers of courts with very limited jurisdiction, such as New York (which has 2300 town and village justice courts) and Texas (which has approximately 850 municipal courts and 920 justice of the peace courts).

## C. The State Governments

88. The governments of the 50 States have structures closely paralleling those of the federal government, each with a constitution and executive, legislative, and judicial branches. The State governor acts as the head of the executive, but not all States bestow the same amount of power upon their governors; some are quite powerful, others less so. All State legislatures have two houses, except Nebraska's, which is unicameral. The size of State legislatures varies widely; the largest include those in New Hampshire (424 representatives), Pennsylvania (253), and Georgia (236), while the smallest are found in Nebraska (49) and Alaska (60). Most State judicial systems mirror the federal system, with lower trial courts, appellate courts, and a court of last resort. States and insular areas divide relatively evenly among those that elect their judges (22), those that appoint judges (16 including the District of Columbia and four of the insular areas), and those where judges are initially appointed and subsequently run on a retention ballot (18 including Guam).

89. The power of State government is vast. Essentially, each State is a sovereign entity, free to promulgate and enforce policy and law that pertain exclusively to that State, limited under the Constitution only to the extent that the relevant authority has been delegated to the federal government. The power of a State and its cities and localities to regulate its own general welfare has traditionally been termed the "police power." Besides enforcement of criminal laws, the police power encompasses agriculture and conservation, highway and motor vehicle supervision, public safety and correction, professional licensing, regulation of intrastate business and industry, and broad aspects of education, public health, and welfare. The interpretation of a State's constitution falls exclusively within the domain of that State's own court system. Only where there is direct conflict with federal law or the federal Constitution, or where the federal government has "pre-empted" the field, can State law be overridden or invalidated. The retention of most aspects of governmental authority at the State and local levels generally serves to keep that authority in the hands of the people.

90. Distribution of authority between the States and the federal government has historically been among the most basic dynamics of the federal system. Although the powers of Congress are limited, and those powers not expressly delegated to the federal government are reserved to the States or to the people, the twentieth century has seen increasingly broad judicial interpretation of the national legislative power. Today there is an abundance of federal legislation, touching on many areas which 100 years ago would have been exclusively considered a State concern. One beneficial result of this expansion of federal authority, especially in the latter half of this century, has been the increased protection of individual rights and freedoms, especially in the area of civil and political rights.

## D. Other governmental levels

91. A significant number of United States citizens and/or nationals live in areas outside the 50 States and yet within the political framework and jurisdiction of the United States. They include people living in the District of Columbia, American Samoa, Puerto Rico, the United States Virgin Islands, Guam, the Northern Marianas, and the remaining islands of the Trust Territory of the Pacific. The governmental framework in each is largely determined by the area's historical relationship to the United States and the will of its residents.

92. The District of Columbia was established at the founding of the Republic to serve as the home of the nation's capital outside of any State. In 1783 the Continental Congress voted to establish a federal city; the specific site was chosen by President George Washington in 1790. Congress moved to the District from Philadelphia in 1800, and the District remains the seat of the federal government today. Originally, Maryland and Virginia donated land for the District. The land donated by Virginia was given back in 1845 and the District now covers 179.2 $km^2$ located on the west central edge of Maryland, along the eastern bank of the Potomac River. Residents of the District, numbering some 600,000, are United States citizens and have been entitled to vote in presidential elections since 1964. Residents elect a delegate to the United States Congress as well as a mayor and a city council with authority to levy its own taxes. The United States Congress retains final authority in a

number of important areas, including the District's laws and budget. Whether the District should be admitted to statehood remains an issue of active public debate.

93. American Samoa is an unincorporated territory of the United States, acquired in 1900 and 1904 through Deeds of Cession executed by its Chiefs, and ratified by Congress in 1929. Residents are United States nationals who do not vote in federal elections; they are, however, represented by an elected nonvoting delegate in the House of Representatives. Fundamental rights are guaranteed by both the United States Constitution and the territorial constitution. American Samoa is under the general administrative supervision of the Department of the Interior; none the less, American Samoa has been self governing since 1978, with an elected governor and lieutenant governor and bicameral legislature (Senate and House of Representatives). American Samoa also has its own high court and five district courts.

94. Puerto Rico has been a United States territory since 1899 and is currently a self-governing commonwealth freely associated with the United States. Puerto Ricans have been citizens of the United States since 1917; however, they cannot vote in presidential elections. Residents elect the Commonwealth's "resident commissioner" to the United States House of Representatives. Puerto Rico has a popularly elected chief executive (governor), a bicameral legislature, and a judicial branch consisting of a Supreme Court and lesser courts. There is also a federal district court. The federal government conducts foreign relations for Puerto Rico and has responsibility for defence, the post office, customs, and certain agricultural activities. The future relationship of Puerto Rico and the United States continues to be a matter of vigorous public debate. Most recently, in November 1993, through a nonbinding plebiscite, the citizens of Puerto Rico chose to retain the commonwealth arrangement, although nearly as much support was voiced for statehood. By comparison, a small minority of approximately 5 per cent sought independence.

95. The United States Virgin Islands are an unincorporated territory of the United States. They were acquired from Denmark in 1917; residents are United States citizens who do not vote in federal elections. Since 1973, they have been represented by an elected delegate in the House of Representatives. Residents elect their chief executives, the governor and lieutenant governor, as well as the 15 members of their unicameral legislature. There is a federal judicial district for the United States Virgin Islands, whose judge is appointed by the United States President.

96. Guam is an unincorporated territory of the United States, acquired by the United States in 1899 after the Spanish-American War and administered by the Navy until 1950. Residents of Guam are United States citizens who do not vote in federal elections; since 1972, they have been represented by a delegate in the House of Representatives. The territory is under the general administrative supervision of the Department of the Interior. The residents elect their own governor, lieutenant governor, and unicameral legislature. The district court of Guam operates within jurisdiction very similar to a United States district court.

97. The Northern Marianas are a self-governing commonwealth in political union with the United States. Formerly part of the Trust Territory of the Pacific Islands assigned to the United States by the United Nations in 1947, the Northern Marianas became self-governing in 1976. Residents are United States citizens. They do not participate in federal elections but do vote for their popularly elected governor, lieutenant governor, and bicameral legislature. Residents maintain control over domestic affairs; the United States Government provides for defence and foreign affairs. The Northern Marianas adopted this governmental form in a United Nations referendum in 1975.

98. Two other areas formerly encompassed within the Trust Territory of the Pacific Islands include the Federated States of Micronesia, a federation including Pohnpei, Kosrae, Chuuk and Yap, and the Republic of the Marshall Islands. Both are now independent, sovereign nations in free association with the United States. The sole remaining entity of the Trust Territory is the Republic of Palau, consisting of 200 islands in the Caroline Island chain. The majority of the population of 15,000 lives on the main island of Koror. Palau has been self-governing since the adoption of its constitution in 1980. In November 1993 the citizens of Palau ratified a compact of free association negotiated with the United States in 1986, which should soon lead to the termination of the Trusteeship and independence for Palau.

## III. GENERAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS

### A. Legal framework

99. The essential guarantees of human rights and fundamental freedoms within the United States are set forth in the Constitution and statutes of the United States, as well as the constitutions and statutes of the several States and other constituent units. In practice, the enforcement of these guarantees ultimately depends on the existence of an independent judiciary with the power to invalidate acts by the other branches of government which conflict with those guarantees. Maintenance of a republican form of government with vigorous democratic traditions, popularly elected executives and legislatures, and the deep-rooted legal protection of freedoms of opinion, expression and the press, all contribute to the protection of fundamental rights against governmental limitation and encroachment.

#### United States Constitution

100. Since the Constitution was ratified in 1789, there have been 27 amendments to it. Amending the Constitution requires approval by two thirds of the Congress, or by a national convention, followed by ratification by three quarters of the States. The first 10 amendments, known collectively as the Bill of Rights, were added in 1791. These amendments provide for the basic protection of those individual rights which are fundamental to the democratic system of government. They remain at the heart of the United States legal system today, just as they were written two centuries ago, although the specific rights they guarantee have been extensively elaborated by the judiciary over the course of time. Individuals may assert these rights against the government in judicial proceedings.

101. The First Amendment guarantees freedom of worship, speech and press, the right of peaceful assembly, and the right to petition the government to correct wrongs. The Second Amendment restricts the federal government from infringing on the right of citizens to keep and bear arms, bearing in mind the necessity for a "well regulated militia". The Third Amendment provides that troops may not be quartered in a private home without the owner's consent. The Fourth Amendment guards against unreasonable searches, arrests and seizures of persons and property.

102. The next four amendments deal with the system of justice. The Fifth Amendment forbids trial for a major crime except after indictment by a grand jury; it prohibits repeated trials for the same offence, forbids punishment without due process of law, and provides that an accused person may not be compelled to testify against him or herself. The Sixth Amendment guarantees a speedy public trial for criminal offences; it requires trial by an unbiased jury, guarantees the right to legal counsel for the accused, and provides that witnesses shall be compelled to attend the trial and testify in the presence of the accused. The Seventh Amendment assures trial by jury in civil cases involving anything valued at more than 20 United States dollars. The Eighth Amendment forbids excessive bail or fines, and cruel or unusual punishment.

103. The last 2 of the first 10 amendments contain very broad statements of constitutional authority. The Ninth Amendment declares that the listing of individual rights is not meant to be comprehensive, and that the people have other rights not specifically mentioned in the Constitution. Importantly, the Tenth Amendment provides that powers not delegated by the Constitution to the federal government, nor prohibited by it to the States, are reserved to the States or the people.

104. Amendments to the Constitution subsequent to the original Bill of Rights cover a wide range of subjects. One of the most far-reaching is the Fourteenth Amendment, by which a clear and simple definition of citizenship was established and broadened guarantees of due process, equal treatment, and equal protection of the law were confirmed. In essence, this amendment, adopted in 1868, has been interpreted to apply the protections of the Bill of Rights to the States. By other amendments, the judicial power of the national government was limited; the method of electing the president was changed; slavery was forbidden; the right to vote was protected against denial because of race, colour, sex or previous condition of servitude; the congressional power to levy taxes was extended to incomes; and the election of United States Senators by popular vote was instituted.

105. The Constitution provides explicitly that it is the "supreme Law of the Land". This clause is taken to mean that when State constitutions or laws passed by State legislatures or laws adopted by the federal government are found to conflict with the Constitution, they have no force or effect. Decisions handed down by the Supreme Court of the United States and subordinate federal courts over the course of two centuries have confirmed and strengthened this doctrine of constitutional supremacy.

State constitutions

106. As indicated above, the protections provided by the federal Constitution and statutes are applicable nationwide, generally providing a minimum standard of guarantees for all persons in the United States. While the law of individual States may therefore offer citizens no less than the protection guaranteed by the Constitution, States may offer greater protection of civil and political rights. During the most intense period of civil and political rights advancement during the past three decades, the federal courts were largely at the forefront. Accordingly, State courts were called upon less frequently to rule on civil rights issues. Gradually, however, some State courts were presented with State constitutional questions regarding human rights and in many cases found that State constitutions provided greater protection than the federal Constitution required. While the extent to which State courts may interpret their constitutions more expansively than the federal Constitution is not settled, the Supreme Court has in fact upheld a State court determination that the right to freedom of expression and petition accorded by the State constitution was broader than the federal First Amendment right. Prune Yard Shopping Center v. Robins, 447 United States 74 (1980) (upholding the California Supreme Court in Robins v. Prune Yard Shopping Center, 592 P.2d 341 (Cal. 1579)).

107. State courts have interpreted their constitutions more expansively than the federal Constitution in a number of areas, including free speech, religious liberty, the provision of government services, and the right to privacy in the home. State constitutions vary widely in length, detail, and similarity to the United States Constitution. As a result, a State court decision, while it may expand upon a right protected by the United States Constitution, may rest on grounds very different from those upon which a similar federal case would be decided.

108. With regard to religious liberty and separation of church and State, both Idaho and Nebraska are examples where the State constitution has been found to require a more rigorous separation of church and State than the First Amendment requires. Based on the State constitution's broad prohibition of governmental assistance to an institution not owned by the State, the Supreme Court of Nebraska found unconstitutional a statute under which public school books were loaned to parochial schools; on similar grounds, the Supreme Court of Idaho struck down a statute authorizing publicly provided transportation of students to nonpublic schools. Gaffney v. State Department of Education, 220 N.W.2d 550 (Neb. 1974); Epeldi v. Engelking, 488 P.2d 860 (Id. 1971). While the United States Supreme Court has ruled that the display of a nativity scene on public property did not violate the Establishment Clause, the California Supreme Court has none the less held that the State constitution's ban on preference for religious sects prohibited the display of a lighted cross on public grounds in celebration of Christmas and Easter. Lynch v. Donnelly, 465 United States 668 (1984); Fox v. City of Los Angeles, 587 P.2d 663 (Cal. 1978).

109. State courts have also interpreted a State right to equal access to government benefits more broadly than the Supreme Court has interpreted a similar federal right. In 1980, the United States Supreme Court held that while women have a right to choose an abortion, they do not have a federal

right to financial support and federal health benefits for obtaining an abortion. Harris v. McRae, 448 United States 297 (1980). The Massachusetts Supreme Judicial Court, in contrast, has held that under the Massachusetts Declaration of Rights, once the State has allocated public funds for child-bearing and health in general, the State must show "genuine indifference" in that allocation and consequently fund abortions as well. Moe v. Secretary of Administration, 417 N.E.2d 387 (Mass. 1981).

110. Similarly, State courts have found that the right to privacy under State law may be far broader than that guaranteed by the penumbra of privacy rights guaranteed by the United States Constitution, as determined by the Supreme Court. The Supreme Court of Alaska, for example, has found a right to use marijuana in the home to be within the State constitution's privacy provisions. See Breese v. State, 501 P.2d 159 (Alas. 1972).

111. Despite these examples, State courts are not uniform in their willingness to find greater protections within the State constitutions than those guaranteed by the federal Government. Termed "judicial federalism", the practice at times has been sharply criticized as an ineffective method for protecting individual rights.

Statutes

112. There is no single statute or mechanism by which basic human rights and fundamental freedoms are guaranteed or enforced in the United States legal system. Rather, domestic law provides extensive protection through enforcement of the constitutional provisions cited above and a variety of statutes which typically provide for judicial and/or administrative remedies.

113. At the federal level, for example, the constitutional protection afforded by the Equal Protection Clause of the Fourteenth Amendment against discrimination by the State governments on the basis of race, colour or national origin has been applied to the federal Government through the Fifth Amendment. It has also been supplemented by a number of specific federal statutes, including the 1866 and 1871 Civil Rights Acts (protecting property rights, freedom to contract, and providing federal remedies for private individuals subjected to unlawful discrimination by persons acting "under colour of law"), the 1964 Civil Rights Act (ensuring equal treatment in places of public accommodation, non-discrimination in federally funded programmes, and non-discrimination in employment), the 1965 Voting Rights Act (invalidating discriminatory voter qualifications), and the 1968 Fair Housing Act (providing the right to be free from discrimination in housing). Similarly, in the area of gender discrimination, individuals benefit from the protections of the Equal Protection Clause, the 1963 Equal Pay Act (equal pay for equal work), the Civil Rights Act of 1964 (non-discrimination in hiring and employment practices and policies), the Education Amendments of 1972 (assuring gender equality in education), the Equal Credit Opportunity Act (equal access and non-discrimination in credit and lending), the Fair Housing Act (non-discrimination in housing, real estate and brokerage), and the Pregnancy Discrimination Act of 1978. Protection against age discrimination is provided by the Age Discrimination in Employment Act of 1967 (prohibiting discrimination in employment against workers or applicants 40 years of age or older). The Civil Rights of Institutionalized Persons Act of 1980 provides

protection to mentally disabled persons in State facilities. Although disabled persons have long been protected against discrimination in the federal service, an important and much broader set of protections was recently added with the enactment of the Americans with Disabilities Act of 1990, which prohibits discrimination against disabled individuals in employment, public accommodations, State and local government services, and public transportation. The Indian Civil Rights Act of 1968 imposes upon tribes such basic requirements as free speech protection, free exercise of religion, due process and equal protection.

114. Most States and large cities have adopted their own statutory and administrative schemes for protecting and promoting basic rights and freedoms. For the most part, State statutory protections mirror those provided by the United States Constitution and federal law. Typically, State constitutions and statutes protect individuals from discrimination in housing, employment, accommodations, credit and education. For example, Minnesota's statute prohibits discrimination in sales, rentals or lease of housing. Minn. Stat. § 363.03 (1992). Massachusetts makes it unlawful to refuse to hire or to discharge someone from employment on discriminatory grounds, or to discriminate in education. Mass. Ann. Laws ch. 151B, § 4; ch. 151C, § 1 (1993). California requires that all persons be "free and equal" in accommodations, advantages, facilities, privileges and services of business establishments. Cal. Civ. Code § 51 (1993). Texas prohibits discrimination in credit or loans. Texas Revised Civil Statutes Annotated art. 5069-207 (1993).

115. To varying extents, States may provide protection exceeding the minimum requirements of federal law. For example, Massachusetts extends its employment discrimination protection to prohibit discrimination on the basis of sexual orientation. Mass. Ann. Laws ch. 151B, § 4 (1993). California's Street Terrorism Enforcement and Protection Act ensures every person freedom from "intimidation, physical harm, and the activities of violent groups and individuals" regardless of race, colour, creed, religion, national origin, sex, age, sexual orientation or handicap. Cal. Pen. Code § 186.21 (1993). Texas forbids discrimination in the provision of emergency medical services. Tex. Health & Safety Code Ann. § 311.02 (1993).

Derogation/states of emergency

116. Neither the Constitution nor the laws of the United States provide for the declaration of a general state of emergency entailing suspension of the normal operations of the Government or permitting derogations from fundamental rights. On the contrary, the basic requirement for a republican form of government, the general functions of the three branches of the federal Government, and most of the fundamental civil and political rights enjoyed by individuals, are all enshrined in the Constitution and thus remain in effect at all times, even during crisis situations.

117. The one exception to this rule concerns the privilege of the writ of habeas corpus. Article I, § 9, cl. 2 of the Constitution states that the privilege shall not be suspended, "unless when in cases of rebellion or invasion the public safety may require it". Congress is considered to hold the authority to suspend the privilege; President Lincoln suspended the

privilege during the Civil War but sought congressional authorization for his actions. Ex Parte Bollman, 8 U.S. (4 Cranch) 74, 101 (1807); Ex Parte Merryman, 17 Fed. Cas. 144 (No. 9487) (C.C.D. Md. 1861) (Circuit Justice Taney found Lincoln's action invalid). The privilege has been suspended only three other times, each pursuant to an act of Congress.

118. At the national level, there is a general statutory prohibition against the use of the armed forces for domestic law enforcement purposes. However, the President is authorized in limited circumstances to order the use of federal troops to assist State and local authorities in controlling violence and to suppress insurrections and enforce federal law. The President may also declare an emergency with respect to catastrophic domestic situations (for example, in the event of an earthquake, a hurricane, flooding or a drought), thus permitting the federal Government to provide disaster relief and emergency assistance to State and local governments and to the individual victims of the crisis. These laws do not, however, permit the executive branch to interfere with the responsibilities of the legislative or judicial branches of the federal Government or to arrogate the authority of the States.

119. Other statutes permit the President to declare national emergencies with respect to foreign affairs and international economic transactions (thus providing a basis, for example, for implementation of international sanctions imposed by the United Nations Security Council or other competent international authority). While these laws permit the imposition of civil and criminal penalties for prohibited activities, they remain subject to constitutional limitations and do not circumscribe basic human rights or permit interference in the normal functioning of the Government.

120. Under State and local law, the responsible authorities (State governors, city mayors, county executives) are typically permitted to take a wide range of emergency actions pursuant to the general "police power" in order to respond to emergencies (for example, by imposing curfews in cases of civil unrest, establishing quarantines in response to public health concerns, and restricting water usage in the event of drought). While the "police power" is reserved to the States under the Constitution, actions taken pursuant to it may not limit or infringe upon federally protected rights. Individuals thus retain their constitutional protections and human rights at all times and may challenge the exercise of emergency authority in the courts. As a general rule, the exercise of emergency authority by the Government - at any level - is given particularly careful judicial scrutiny when it infringes upon individual rights and liberties. In several notable cases, the United States Supreme Court has invalidated presidential actions taken in emergency situations.

## B. Responsible authorities

121. Within the federal Government, all three branches share responsibility for the protection and promotion of fundamental rights under the Constitution and the statutes of the United States. The President is responsible for enforcing the law. Within the Department of Justice, the Civil Rights Division bears principal responsibility for the effective enforcement of federal civil rights laws. These include the various civil rights acts mentioned above as well as specific criminal statutes prohibiting wilful

deprivation of constitutional rights by officials acting with actual or apparent legal authority or through conspiracy, involuntary servitude, and violent interference with federally protected activities. In addition, most other agencies have civil rights sections charged with enforcing civil rights issues within their scope of authority.

122. The United States Commission on Civil Rights, a statutorily established independent agency within the executive branch, collects and studies information on discrimination or denials of equal protection of the laws because of race, colour, religion, sex, age, handicap, national origin or in the administration of justice in such areas as voting rights, enforcement of civil rights laws, and equality of opportunity in education, employment and housing. It also evaluates federal laws and the effectiveness of governmental equal opportunity programmes and serves as a clearing house for civil rights information. The Commission makes findings of fact and recommendations for the President and the Congress but has no independent enforcement authority.

123. The United States Equal Employment Opportunity Commission, also an independent agency within the executive branch, works to eliminate discrimination based on race, colour, religion, sex, national origin, disability or age in all aspects of the employment relationship. The Commission conducts investigations of alleged discrimination, makes determinations based on gathered evidence, attempts conciliation when discrimination has occurred, files lawsuits, and conducts voluntary assistance programmes for employers, unions and community organizations. The Commission has oversight responsibility for all compliance and enforcement activities relating to equal employment opportunity among federal employees and applicants, including discrimination against individuals with disabilities.

124. At the State and local levels, a variety of schemes and mechanisms exist to protect and promote basic rights. At the State level, enforcement responsibility is typically found in the Attorney-General's Office or in separate civil or human rights offices within the State government or at the county level. Examples include the Massachusetts Commission Against Discrimination, the Illinois Department of Human Rights, the Cook County (Illinois) Human Rights Commission, the California Fair Employment and Housing Department, and the Texas Commission on Human Rights. Many large city governments have also established offices or commissions to address civil rights and discrimination issues. These organizations vary. Some emphasize enforcement of housing and employment anti-discrimination laws. Others facilitate community development and strategies to address human rights issues. Examples include the Boston (Massachusetts) Human Rights Commission, the Chicago (Illinois) Commission on Human Relations, the Los Angeles (California) Human Relations Commission, and the Austin (Texas) Human Rights Commission.

125. Non-governmental organizations also play an important role in ensuring the protection and promotion of human rights within the United States. Professional groups such as the American Bar Association and the various State and local bar associations provide legal expertise as well as forums for the development of considered positions on legal developments and matters of human rights concern. A number of organizations devoted primarily to human rights, including among many others the NAACP Legal Defense and Education Fund,

The Mexican-American Legal Defense Fund, the National Council of La Raza, Amnesty International, Human Rights Watch, the Lawyers' Committee for Human Rights, and the International Human Rights Law Group, are active participants at the national level. Many church and religious groups, as well as organizations representing particular constituencies with particular human rights concerns (such as women, children, the disabled, the indigenous) are actively involved in the consideration and application of laws relating to their constituencies.

## C. Remedies

126. United States law provides extensive remedies and avenues for seeking redress for alleged violations of basic rights and fundamental freedoms. The principal method, if administrative remedies are insufficient to produce the desired result, is through recourse to court. A person claiming to have been denied a constitutionally protected right may assert that right directly in a judicial proceeding in State or federal court. In addition, in instances involving "State action" or actions "under colour of State law", the injured party may seek civil damages and injunctive relief against the individual responsible for the denial of rights under the Civil Rights Act of 1871, 42 U.S.C. § 1983. Federal officials may be sued for damages directly under provisions of the Constitution, subject only to various doctrines of immunity from liability.

127. Many federal statutes specifically provide for enforcement through administrative procedures or by civil actions filed in court. All States have judicial procedures by which official action may be challenged, though the procedure may go by various names (such as "petition for review").

128. Where Congress has so provided, the federal Government may bring civil actions to enjoin acts or patterns of conduct that violate some constitutional rights. This is the case, for example, under the principal civil rights acts discussed above. Thus, the Attorney-General can sue under the Civil Rights of Institutionalized Persons Act to vindicate the rights of persons involuntarily committed to prisons, jails, hospitals, and institutions for the mentally retarded. Similarly, the Voting Rights Act of 1965 authorizes the Attorney-General to bring suit to vindicate the right to vote without discrimination based on race. The federal Government may also prosecute criminally the violations of some civil rights, for example, the denial of due process through the abuse of police power and conspiracies to deny civil rights. The Government may also bring criminal prosecutions against defendants for use of force or threat of force to violate a person's rights.

129. Any person prosecuted under a statute or in conjunction with a governmental scheme (such as jury selection) which he or she believes to be unconstitutional may challenge that statute as part of the defence. This may be done in the context of federal or State prosecutions. Even in civil actions, the defendant may pose a constitutional challenge to the statute that forms the basis of the suit. Any court, from the lowest to the United States Supreme Court, may consider such a claim of unconstitutionality, though normally it must be raised at the earliest opportunity to be considered at all. Detention pursuant to a statute believed to be unconstitutional or as a result of a procedure that allegedly violated a constitutional right may also

be challenged by a writ of habeas corpus in State and/or federal court. To a limited degree, post-conviction relief is also available by State and federal writs of habeas corpus or, in the case of federal convictions, by a motion for relief from a sentence. All States have similar remedies as part of their criminal procedure.

## D. Human rights instruments

### Multilateral treaties

130. The United States is at present party to the following multilateral human rights instruments:

- Slavery Convention and its amending Protocol;
- Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery;
- Protocol Relating to the Status of Refugees;
- Inter-American Convention on the Granting of Political Rights to Women;
- Convention on the Political Rights of Women;
- Convention on the Prevention and Punishment of the Crime of Genocide;
- ILO Convention No. 105 concerning the Abolition of Forced Labour;
- International Covenant on Civil and Political Rights.

131. In addition, the United States is moving actively to ratify three other treaties:

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the Senate gave advice and consent to ratification in 1990;
- International Convention on the Elimination of All Forms of Racial Discrimination, signed by the United States in 1966, and given advice and consent to ratification in 1994;
- Convention on the Elimination of All Forms of Discrimination against Women.

132. Moreover, the United States has signed but not yet ratified the following multilateral human rights treaties:

- International Covenant on Economic, Social and Cultural Rights;
- American Convention on Human Rights.

133. In addition, the United States has entered into many bilateral treaties (including consular treaties and treaties of friendship, commerce and navigation) which contain provisions guaranteeing various rights and protections to nationals of foreign countries on a reciprocal basis. In some cases, these may be invoked directly in United States courts for that purpose.

Treaties as law

134. Under the Constitution, duly ratified treaties are the supreme law of the land, equal with enacted federal statutes. Accordingly, they displace previously adopted federal law and may be displaced by subsequently adopted federal law to the extent of any inconsistency. As federal law, they also prevail over inconsistent State and local law. Where they touch on matters previously within the purview of State and local government (as opposed to the federal Government), they may also serve to "federalize" the issue, thus affecting the allocation of authority between the States and the central Government.

135. Historically, the prospect that the constitutional treaty power could be used to override or invalidate State and local law generated considerable domestic political controversy, especially when it concerned individual rights. Although it has been recognized that Congress may act under the treaty power when it might not otherwise have the authority to do so (see Missouri v. Holland, 252 U.S. 416 (1920)), reliance upon that power to legislate changes in State and local law has been considered by some to be an interference with the rights of the constituent States reserved to them under the Constitution. Consequently, the expectation has been that any changes to United States law required by treaty ratification will be accomplished in the ordinary legislative process.

136. Also, as a matter of domestic law, treaties as well as statutes must conform to the requirements of the Constitution; no treaty provision will be given effect as United States law if it conflicts with the Constitution. Reid v. Covert, 354 U.S. 1 (1957). Thus, the United States is unable to accept a treaty obligation which limits constitutionally protected rights, as in the case of article 20 of the International Covenant on Civil and Political Rights, which infringes upon freedom of speech and association guaranteed under the First Amendment to the Constitution.

137. Consequently, in giving advice and consent to ratification of a treaty concerning the rights of individuals, Congress must give careful consideration to the specific provisions of the treaty and to the question of consistency with existing State and federal law, both constitutional and statutory. When elements or clauses of a treaty conflict with the Constitution, it is necessary for the United States to take reservations to those elements or clauses, simply because neither the President nor Congress has the power to override the Constitution. In some cases, it has been considered necessary for the United States to state its understanding of a particular provision or undertaking in a treaty, or to make a declaration of how it intends to apply that provision or undertaking.

Implementation

138. In the United States system, a treaty may be "self-executing", in which case it may properly be invoked by private parties in litigation without any implementing legislation, or "non-self-executing", in which case its provisions cannot be directly enforced by the judiciary in the absence of implementing legislation. This distinction derives from the Supreme Court's interpretation of article VI, cl. 2, of the Constitution. The distinction is one of domestic law only; in either case, the treaty remains binding on the United States as a matter of international law. Thus, in the case of human rights treaties, a "non-self-executing" treaty does not, in and of itself, accord individuals a right to seek enforcement of its protections in a domestic court, even though the United States continues to be bound to recognize those protections.

139. So long as it complies with its undertakings and responsibilities under duly ratified treaties, the United States considers that it remains generally free to determine the specific modalities of treaty implementation under domestic law. In other words, unless it has specifically agreed to make the provisions of a given treaty part of the judicially enforceable body of domestic law, the United States may follow the alternatives available to it under its own law for implementing treaty obligations in domestic law.

140. When necessary to carry out its treaty obligations, the United States generally enacts implementing legislation rather than relying on a treaty to be "self-executing". Thus, for example, to implement the Genocide Convention, the United States Congress adopted the Genocide Convention Implementation Act of 1987, codified at 18 U.S.C. §§ 1091-93. When such legislation is required, the United States will not deposit its instrument of ratification until the necessary legislation has been enacted. It is for this reason, for example, that the United States has refrained from depositing its instrument of ratification for the Torture Convention, even though the Senate gave its advice and consent to ratification of that treaty in 1990. Implementing legislation was only approved by the Congress and enacted by the President in May 1994.

141. However, the United States does not believe it necessary to adopt implementing legislation when domestic law already makes adequate provision for the requirements of the treaty. Again, the Torture Convention provides a case in point. While final ratification awaited enactment of legislation giving United States courts criminal jurisdiction over extraterritorial acts of torture which had not previously been covered by United States law, no new implementing legislation was proposed with respect to torture within the United States because United States law at all levels already prohibited acts of torture within the meaning of the Convention. Similarly, because the basic rights and fundamental freedoms guaranteed by the International Covenant on Civil and Political Rights (other than those to which the United States took a reservation) have long been protected as a matter of federal constitutional and statutory law, it was not considered necessary to adopt special implementing legislation to give effect to the Covenant's provisions in domestic law. That important human rights treaty was accordingly ratified in 1992 shortly after the Senate gave its advice and consent.

## IV. INFORMATION AND PUBLICITY

142. Information concerning human rights treaties is readily available to any interested person in the United States. All treaties, including human rights treaties, to which the United States is a party are published by the federal Government, first in the Treaties and International Agreements Series (TIAS) and thereafter in the multi-volume United States Treaties (UST) series. Annually, the Department of State publishes a comprehensive listing of all treaties to which the United States is a party, known as Treaties in Force (TIF). The constitutional requirement that the Senate give advice and consent to ratification of all treaties ensures that there is a public record of its consideration, typically including a formal transmission of the treaty from the President to the Senate, a record of the Senate Foreign Relations Committee's public hearing and the Committee's report to the full Senate, together with the action of the Senate itself.

143. The texts of all human rights treaties (whether or not the United States has ratified) can also be readily obtained from the Government or virtually any public or private library, as they have been published in numerous non-governmental compilations and are also available in major computerized databases. The United Nations Compilation of International Instruments on Human Rights (ST/HR/1) is also widely available.

144. Although there is no national educational curriculum in the United States, instruction in fundamental constitutional, civil and political rights occurs throughout the educational system, from grammar and secondary school, through the college and university levels. Most institutions of higher education, public and private, include courses on constitutional law in their departments of political science or government. Constitutional law is a required subject in law school curricula, and most law schools now offer advanced or specialized instruction in the area of civil and political rights, non-discrimination law and related fields. Nearly every law school curriculum includes instruction in international law including basic human rights law. Several textbooks have been published in the field, including documentary supplements which contain the texts of the more significant human rights instruments. The numerous non-governmental human rights advocacy groups in the United States, which operate freely, also contribute to public awareness and understanding of domestic and international rights and norms.

145. With particular respect to the International Covenant on Civil and Political Rights, the original transmittal of the treaty to the Senate was published in 1978 (Message from the President of the United States Transmitting Four Treaties Pertaining to Human Rights, 95th Cong., 2d Sess., Exec. E, 23 Feb. 1978). The record of Senate consideration has also been published (see Hearing before the Senate Committee on Foreign Relations, 102d Cong., 1st Sess., 21 Nov. 1991, S. Hrg. 102-478; Report of the Senate Foreign Relations Committee, Exec. Rept. 102-23, 24 March 1992; 102 Cong. Rec. S4781-4784 (daily ed. 2 April 1992). The full text of the treaty has also been published in the official journal of the federal Government (see 58 Federal Register 45934-45942, No. 167, 31 Aug. 1993). Copies of the Covenant have also been sent to the attorneys-general of each State and constituent unit in the United States, with a request that they be further

distributed to relevant officials. The fact of United States ratification and the text of the treaty have also been brought to the attention of State bar associations. Governmental officials have participated in a number of presentations at academic and professional meetings to highlight the significance of United States ratification.

146. Finally, the advice and input of various non-governmental organizations and other human rights professionals was sought and considered during the preparation of this report, and the report will be given wide distribution to the public and through interested groups such as the bar associations and human rights organizations.

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